

MINUTES OF THE CANANDAIGUA CITY COUNCIL MEETING  
THURSDAY, OCTOBER 3 2019 7:00 P.M.  
City Council Chambers  
Hurley Building – 205 Saltonstall St., Canandaigua NY  
City Website: canandaiguanewyork.gov

**Pledge of Allegiance:**

**Roll Call:**

**Members Present:** Councilmember Ward 1 Nick Cutri  
Councilmember Ward 2 Robert Palumbo  
Councilmember Ward 3 Karen White  
Councilmember Ward 4 Renée Sutton  
Councilmember-at-Large Robert O'Brien  
Councilmember-at-Large Stephen Uebbing  
Mayor Ellen Polimeni

**Absent:** Councilmember-at-Large James Terwilliger (Out of Town)  
Councilmember-at-Large David Whitcomb (Arrived 7:50 P.M.)

**Also Present:** City Manager, John Goodwin  
Corporation Counsel Terence Robinson, Boylan Code  
Assistant City Manager Rob Richardson

**Public Hearing: Local Law No. 2 of 2019 to Establish a Sustainable Energy Loan Program (Open C-PACE) in the City of Canandaigua**

Mayor Polimeni opened the public hearing at 7:03 P.M.  
No one was present to speak to this local law.

Mayor Polimeni closed the public hearing at 7:04 P.M.

**Public Hearing: Ordinance No. 5 of 2019 Amending Chapter 648-7 Entitled One-Way Roadways and Parking Lots of the Municipal Code**

Mayor Polimeni opened the public hearing at 7:04 P.M.

- Linda Case, Chair of the Trustees for the First Congregational Church – in favor of Dailey Avenue going one way.
- Dave Snath, who owns a business at corner of West asked if this is a safety issue? It will be more difficult to enter the street from the South.

Mayor Polimeni closed the public hearing at 7:09 P.M.

**Review of Community Core Values:** Councilmember-at-Large O'Brien read the Community Core Values: As residents, city staff and appointed & elected officials of the City of Canandaigua, our decisions and actions will be guided by these core values: Responsive, Participatory Governance; Caring & Respect; Integrity; Heritage; Stewardship; and Continuous Improvement.

**Approval of Minutes:** September 5 and September 19, 2019

Moved: Councilmember-at-Large Uebbing  
Seconded: Councilmember Ward 4 Sutton  
*Vote Result: Carried unanimously by voice vote (7-0)*

### **Recognition of Guests:**

- Unidentified guest asked about testing of the lake.
- Kevin Dennis, Baker Drive, attending the Council meeting as a requirement for his Government Class.

### **Committee Reports:**

#### ***Planning/Development Committee:*** October 1 2019 (Appendix A)

- Budget Amendment – Retroactivity payment to the Fire Union
- Town Transfer Facility Usage Agreement
- Community Choice Aggregation
- LDC UPWP Application
- Railway Bridge Signs

#### ***Environmental/Parks Committee:*** September 10, 2019 (Appendix B)

- Community Choice Aggregation
- Charlotte Street and Sonnenberg Park
- Municipal Agreement for New Waste Receptacles

#### ***Ordinance/PUD Committee:*** September 17, 2019 (Appendix C)

- Special Events – Oktoberfest
- Chicken Ordinance
- Expansion of Historic District
- Ordinance Reducing Single-Use Plastics
- Vaping and Tobacco Establishments
- Banning Pesticides Use in City
- Banning Foie Gras in City

#### ***Finance/Budget Committee:*** September 24, 2019 (Appendix D)

- C-Pace Financing Municipal Agreement
- Dog Park Refund
- The Hill LLC Purchase Offers
- Auditors Contract Renewal

### **Resolutions:**

#### **Resolution #2019-079**

Moved: Council Member Ward 2 Palumbo  
Seconded: Councilmember Ward 4 Sutton

### **A RESOLUTION AUTHORIZING A MUNICIPAL AGREEMENT**

## **FOR WASTE RECEPTACLES DOWNTOWN**

**WHEREAS**, in 2014, Ontario County adopted its Local Solid Waste Management Plan (LSWMP) which included the ambitious goal to increase waste reduction and diversion in the County to sixty percent (60%) by 2024; and

**WHEREAS**, one way the County hopes to achieve this goal is by making high turnout events held in the County's two cities (Canandaigua and Geneva) more sustainable; and

**WHEREAS**, the County is willing to fund the purchase of new waste bins downtown and make small modifications to existing bins so that they have separate, clearly labeled spots for trash and recycling as well as educational information on the receptacles for an amount not to exceed \$7,000; and

**WHEREAS**, Staff recommends approving the agreement with Ontario County to facilitate this project, and this recommendation was reviewed and approved at the September 10<sup>th</sup> Environmental/Parks Committee meeting;

**NOW, THEREFORE, BE IT RESOLVED**, that City Council hereby authorizes the City Manager to execute a municipal agreement with Ontario County to purchase new waste bins downtown and make small modifications to existing bins so that they have separate, clearly labeled spots for trash and recycling as well as educational information on the receptacles for an amount not to exceed \$7,000.

*The motion CARRIED UNANIMOUSLY on the following vote:*

***AYES:** Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, and Mayor Polimeni.*

***NOES:** None*

### **Resolution #2019-080**

Moved: Councilmember Ward 3 White

Seconded: Councilmember-at-Large O'Brien

## **A RESOLUTION REQUESTING MUNICIPAL HOME RULE FROM THE NEW YORK STATE LEGISLATURE TO ALLOW THE CITY OF CANANDAIGUA TO REGULATE THE USE OF PESTICIDES UNDER N.Y. ENVIRONMENTAL CONSERVATION LAW § 33-0303 (AMENDED)**

**WHEREAS**, one of the explicitly stated goals in the City of Canandaigua's Strategic Plan is Environmental Stewardship, which includes reducing the City's impact on the environment; and

**WHEREAS**, in 2016, the City passed a 5-year pesticide moratorium banning the application of pesticides in City parks; and

**WHEREAS**, some community members would like to see the moratorium expanded to include the entire City, including private property, however City Council is unable to pursue this due a preemption in New York State law; and

**WHEREAS**, the preemption language in N.Y. Environmental Conservation Law § 33-0303(1) broadly states that "[j]urisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides,

is by this article vested exclusively in the [DEC] commissioner” creating field preemption (i.e., the State Legislature has exercised full regulatory control over the entire field); and

**WHEREAS**, the City of Canandaigua desires the enactment of legislation allowing the City the jurisdictional authority to fully regulate the use of pesticides *[and fertilizers]* within the City of Canandaigua;

**NOW, THEREFORE, BE IT RESOLVED**, that City Council hereby authorizes and directs the City Manager to request home rule legislation from New York State Senator, Pam Helming, and New York State Assemblyman, Brian M. Kolb, related to the above referenced matter.

*Councilmember Ward 4 Sutton made a motion to amend the resolution to include “fertilizers”.*

*Councilmember Ward 3 White seconded the motion.*

*Vote Result: Carried unanimously by voice vote (8-0)*

*Amended Resolution.*

*Vote Result: Carried unanimously by voice vote (8-0)*

### **Resolution #2019-081**

Moved: Councilmember-at-Large O’Brien

Seconded: Councilmember-at-Large Uebbing

#### **A RESOLUTION AUTHORIZING A MUNICIPAL AGREEMENT BETWEEN THE ENERGY IMPROVEMENT CORPORATION AND THE CITY OF CANANDAIGUA RELATING TO THE ENERGIZE NY OPEN C-PACE FINANCING PROGRAM**

**WHEREAS**, Energize NY Open C-PACE (Property Assessed Clean Energy) channels private capital to commercial and non-profit building owners to make energy upgrades to their buildings, enabling them to improve their properties, lower operating expenses and positively impact their communities. Unlike a bank loan, C-PACE financing is a public benefit authorized by state and local law, with repayment secured through a benefit assessment lien on the improved property; and

**WHEREAS**, at the September 5<sup>th</sup> City Council meeting, Local Law 2019-002 establishing a sustainable energy loan program (Open C-PACE) in the City of Canandaigua was introduced and tabled, and a public hearing regarding this legislation was scheduled and held at the October 3<sup>rd</sup> City Council meeting; and

**WHEREAS**, after the October 3<sup>rd</sup> public hearing, City Council may pass Local Law 2019-002 establishing a sustainable energy loan program (Open C-PACE) in the City of Canandaigua; and

**WHEREAS**, when the local law is enacted, the City must execute a municipal agreement with the Energy Improvement Corporation (EIC) to finalize the process and make C-PACE financing available in the City of Canandaigua; and

**WHEREAS**, Staff recommends signing the municipal agreement to fully implement C-PACE financing, and this recommendation was reviewed and approved at the September 24<sup>th</sup> Finance/Budget Committee meeting; and

**NOW, THEREFORE, BE IT RESOLVED**, that City Council hereby authorizes the City Manager to execute a municipal agreement with the Energy Improvement Corporation (EIC) establishing a sustainable

energy loan program (Open C-PACE) in the City of Canandaigua provided that Local Law 2019-002 is also adopted.

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

### **Resolution #2019-082**

Moved: Council Member Ward 1 Cutri

Seconded: Council Member Ward 2 Palumbo

## **A RESOLUTION AUTHORIZING A CONTRACT EXTENSION FOR AUDITING SERVICES**

**WHEREAS**, the City of Canandaigua uses the services of an independent auditor to review the financial records and to prepare financial statements with regard to those records; and

**WHEREAS**, via Resolution #2014-106 City Council authorized a three-year contract with Raymond F. Wager, CPA, P.C. for auditing services for the years ending December 31, 2014, 2015 and 2016 for amounts not to exceed \$16,900, \$17,450 and \$17,900 respectively, and said agreement was extended for two additional years ending December 31, 2017 and 2018 for amounts not to exceed \$18,400 and \$18,950 respectively which the City accepted; and

**WHEREAS**, Raymond F. Wager, CPA, P.C. has proffered an option to extend this contract for auditing services for the two additional years ending December 31, 2019 and 2020 for amounts not to exceed \$19,450 and \$19,950 respectively; and

**WHEREAS**, City staff has reviewed the proposed extension and recommends that City Council authorize the extension, and this recommendation was reviewed and approved at the September 24th Finance/Budget Committee meeting;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes the City Manager to enter into a two-year contract extension with Raymond F. Wager CPA., P.C. for auditing services for the years ending December 31, 2019 and 2020 for an amount not to exceed \$19,450 and \$19,950 respectively.

*Councilmember-at-Large O'Brien will be voting no on this resolution because best practice is to change auditors periodically. This is not reflection on the good work done by our current auditors and would support one more year but not two.*

*The motion CARRIED on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, , Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: Councilmember-at-Large O'Brien*

### **Resolution #2019-083**

Moved: Councilmember Ward 4 Sutton

Seconded: Councilmember-at-Large Uebbing

## **A RESOLUTION AUTHORIZING A BUDGET AMENDMENT FOR RETROACTIVE PAYMENT TO THE FIRE UNION**

**WHEREAS**, the City and the Canandaigua Firefighters Association Local 2098 I.A.F.F. recently settled a collective bargaining agreement (CBA) replacing the previous CBA that expired on December 31, 2016; and

**WHEREAS**, the agreement includes payments for the raises that the firefighters would have received, with a total estimated cost of \$81,000; and

**WHEREAS**, some of this cost was accounted for in the 2019 Adopted Budget, however there are not sufficient funds in the Fire Department Budget for the full retroactivity payment and as a result, \$47,000 need to be transferred for the payment to take place; and

**WHEREAS**, City Staff has identified sufficient funding in the employee benefit accounts that can be transferred to the Fire Department budget to cover the cost; and

**WHEREAS**, in accordance with §14.8 of the City Charter, City Council approval is required to transfer funds from one department or major organizational unit to another department or major organizational unit; and

**WHEREAS**, Staff recommends authorizing the budget amendment so the retroactive payment to the Fire Union can be made, and this recommendation was reviewed at the October 1<sup>st</sup> Planning/Development Committee meeting;

**NOW, THEREFORE, BE IT RESOLVED**, that City Council hereby authorizes a budget amendment to transfer \$47,000 from employee benefit accounts to the Fire Department Budget allowing so the retroactive payment to the Fire Union can be made.

*The motion CARRIED UNANIMOUSLY on the following vote:*

***AYES:** Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

***NOES:** None*

### **Resolution #2019-084**

Moved: Councilmember-at-Large Uebbing

Seconded: Councilmember Ward 4 Sutton

## **A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A TRANSFER FACILITY USAGE AGREEMENT WITH THE TOWN OF CANANDAIGUA**

**WHEREAS**, the City has utilized the Town of Canandaigua's transfer station to provide City residents with the ability to dispose of bulk waste items such as construction and demolition debris (resident/household generated only), carpeting, furniture, appliances, and electronics; and

**WHEREAS**, the previous agreement expired in April 2019, but both parties agreed to continue on a month to month basis until such time that a successor agreement could be prepared; and

**WHEREAS**, the new agreement would not require annual renewal, but maybe terminated upon advance 60 days written notice; and

**WHEREAS**, City Staff recommends approving the agreement, and this recommendation was reviewed at the October 1<sup>st</sup> Planning/Development Committee meeting;

**NOW, THEREFORE, BE IT RESOLVED** that City Council hereby authorizes the City Manager to execute the Transfer Facility Usage Agreement with the Town of Canandaigua to provide for continued use of the Transfer Facility on a month to month basis until a long-term successor agreement can be reached.

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

### **Resolution #2019-085**

Moved: Councilmember-at-Large Uebbing

Seconded: Council Member Ward 1 Cutri

## **A RESOLUTION AUTHORIZING THE SUBMISSION OF A UNIFIED PLANNING WORK PROGRAM GRANT WITH THE TOWN OF CANANDAIGUA AND THE CANANDAIGUA LOCAL DEVELOPMENT CORPORATION**

**WHEREAS**, The Unified Planning Work Program (UPWP) is the program of federally-funded transportation planning activities undertaken each year by the Genesee Transportation Council, its member agencies, and other jurisdictions in the Genesee-Finger Lakes Region; and

**WHEREAS**, Projects funded through the UPWP must reflect the priorities and direction of the region as represented by the goals and objectives of the Long-Range Transportation Plan (LRTP); and

**WHEREAS**, the City and Town, in conjunction with the newly formed Canandaigua Local Development Corporation (LDC), would like to submit an application to do long-term planning to address connecting the Lakeshore District to Downtown including the intersection of South Main Street (NYS Rt. 332) and Eastern Blvd. (NYS Rts. 5&20); and

**WHEREAS**, the LDC plans to serve as the applicant and obtaining support resolutions from both the Town and the City, however, if the State has not officially incorporated the LDC in time the City will serve as the applicant; and

**WHEREAS**, the application is due October 18th and Staff is requesting authorization to apply and a resolution of support; and

**WHEREAS**, this request was reviewed at the October 1<sup>st</sup> Planning/Development Committee Meeting;

**NOW, THEREFORE, BE IT RESOLVED**, City Council hereby supports and/or authorizes the submission of a UPWP grant application, in conjunction with the Town of Canandaigua and the Canandaigua

LDC, to do long-term planning to address connecting the Lakeshore District to Downtown including the intersection of South Main Street (NYS Rt. 332) and Eastern Blvd. (NYS Rts. 5&20).

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

### **Resolution #2019-086**

Moved: Council Member Ward 2 Palumbo

Seconded: Councilmember Ward 4 Sutton

### **A RESOLUTION AUTHORIZING CHRISTA DEVELOPMENT/HUNT EAS TO APPLY FOR REDEVELOPMENT OF 267 SOUTH MAIN STREET**

**WHEREAS**, the City of Canandaigua foreclosed on 267 South Main Street last year after also partnering with the New York State Comptroller's Office and the New York State Department of Environmental Conservation to remediate the site; and

**WHEREAS**, the partnership involved the City being responsible for demolishing the structures on site and splitting the proceeds from the sale of the property 50/50 in exchange for the NYSDEC being responsible for the remediation of the environmental hazards and releasing the City and any future interested parties from any liability related to the contamination/remediation; and

**WHEREAS**, the site was remediated and the City issued an RFP seeking proposals to redevelop the site and received a proposal from Christa Development/Hunt EAS to develop a mixed-use development on the site; and

**WHEREAS**, at its September 19, 2019 meeting, the PUD Committee of City Council approved the conceptual proposal and have asked the developers to proceed with the land use approval process via the Zoning Board of Appeals and Planning Commission;

**NOW, THEREFORE, BE IT RESOLVED**, that City Council hereby authorizes Christa Development and Hunt EAS to apply to the Zoning Board of Appeals and Planning Commission for approvals necessary for the proposed development.

*Councilmember-at-Large Whitcomb will be voting no on this resolution because we only received one bid and this does not a preferred use for this area.*

*Other Councilmembers will support this property has been vacant for many years and needs to be developed.*

*The motion CARRIED on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing and Mayor Polimeni.*

*NOES: Councilmember-at-Large Whitcomb*

## **Ordinances:**

### **Ordinance #2019-005:** *(Tabled at the September 5, 2019 Council Meeting)*

#### **AN ORDINANCE AMENDING CHAPTER 648-7 ENTITLED ONE-WAY ROADWAYS AND PARKING LOTS OF THE MUNICIPAL CODE**

Lifted from the Table: Council Member Ward 1 Cutri

Seconded: Councilmember Ward 4 Sutton

*Vote Result: Carried unanimously by voice vote (8-0)*

Moved for adoption: Council Member Ward 1 Cutri

Seconded: Councilmember Ward 4 Sutton

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

### **Ordinance #2019-006:**

Councilmember-at-Large Whitcomb read the following ordinance and placed it on the table.

#### **AN ORDINANCE AMENDING CHAPTER 253 OF THE MUNICIPAL CODE ADDING NEW ARTICLE III ENTITLED CHICKENS**

**BE IT ENACTED** by the City Council of the City of Canandaigua that:

**Sec. 1** That chapter 253, section 253-2 of the Municipal Code, is hereby amended as follows [new language is *in bold italics*, deleted language is stricken]:

[§ 253-2 Permit required to keep certain animals; feral cat colonies.](#)

A. It shall be unlawful, to harbor, house, keep, maintain, care for or stable any horse, mare, donkey, mule, cattle, sheep, swine, mink, rabbits, goats, ~~poultry~~, or more than six cats per dwelling within the limits of the City without first having obtained and having in full force and effect a written permit therefor.

**Sec. 2** That chapter 253, of the Municipal Code, is hereby amended as follows [new language is *in bold italics*, deleted language is stricken]:

#### *Article III Chickens*

##### *§ 253-17 Purpose*

*Keeping chickens can play a role in ensuring a source of local food and a sustainable environment, but improper maintenance of chickens in residential neighborhoods can cause nuisances to nearby residential properties and create conditions which are unsanitary and unsafe. It is the intent to permit and regulate the keeping of chickens for the health, safety and welfare of the City of Canandaigua.*

## **§253-18 Definitions**

### **CHICKEN**

*Domestic hens kept for its eggs.*

### **COOP**

*A structure that is designed to house hens, which is enclosed on all sides by a roof, doors, and walls with or without windows. A mobile or portable structure that meets this definition shall be considered a coop.*

### **HEN**

*A female chicken.*

### **RUN**

*An outdoor area that is enclosed on all sides, including the top, by fencing that is attached to or surrounding a coop. A run shall have a doorway or hatch that allows hens to access the space.*

## **§253-19 Permit Required**

- A. No person may breed, raise, harbor, or maintain hens in the City without a permit issued by the Code Enforcement Office.*
- B. The Code Enforcement Office may deny a permit to an applicant that cannot meet the requirements of this Chapter. The Code Enforcement Office may also deny a permit to anyone who has been convicted of animal cruelty violations or is delinquent in the payment of any outstanding taxes or fees.*
- C. A permit shall be renewed every three (3) years.*
- D. The fee for the permit shall be set by resolution of City Council.*

## **§253-20 Regulations for the Keeping of Chickens**

- A. Roosters are prohibited within the City.*
- B. Limitations*
  - a. There shall be no more than one coop and run on a parcel.*
  - b. The maximum number of hens shall be six (6) per property.*
- C. Minimum Standards for Enclosures*
  - a. Hens shall be contained or kept in a fully enclosed coop and run. Hens may be permitted to exercise in a rear, fenced in yard with supervision provided the fence is a minimum of five (5) feet high. Hens must be kept in the coop and run at all times if the coop and run are not located in a fenced yard. No hen shall be permitted to run at large.*
  - b. A coop shall provide a minimum of two (2) square feet per hen.*
  - c. Feed must be stored in an enclosed, rodent proof container at all times.*
  - d. The coop and run shall be located in the rear of the residential structure. A coop and run shall not be permitted in a side or front yard.*

- e. A coop shall be designed and built so that it provides ventilation and shade for hens and protection from precipitation, cold weather, predators, wild birds and rodents.*
- f. Openings in windows and doors are to be covered/secured with wire mesh or screens to deter predators.*
- g. Access doors are required and are to be placed to provide for ease of cleaning.*
- h. A run must be attached to, or surround, the coop. A run shall have a minimum of eight (8) square feet per hen.*
- i. The run must be enclosed on all sides including the top or roof plane. The sides of the run must be made of wire mesh or screening to discourage predators.*
- j. A coop and run shall be at least five (5) feet from the property line and at least twenty (20) feet from a neighboring dwelling. This setback can be waived upon submission of written permission from the owner of the neighboring dwelling.*

**D. Sanitation and Nuisance Prevention**

- a. The coop and run shall be kept clean, dry and in sanitary condition at all times. Animal waste, uneaten or discarded food and feathers are to be removed regularly with a minimum frequency of once per week.*
- b. Animal waste must be collected and disposed of regularly with a minimum frequency of once per week. Notwithstanding the foregoing, animal waste may be composted.*

**§253-21 Grandfathering**

*Any coop and/or run existing prior to the effective date of this Chapter that does not comply with §253-20 C shall be provided one (1) year to comply with the rules and regulations set forth in this Chapter. All other requirements of this Chapter shall be met within sixty (60) days of the effective date of this Chapter.*

**§253-22 Penalties for Offenses**

- A. Any person who shall violate any of the provision of this article shall, upon conviction thereof, be punishable by a fine not exceeding \$250 or imprisonment not exceeding 15 days or by both such fine and imprisonment.*
- B. The Code Enforcement Office shall have the discretion to immediately and permanently revoke a permit if any person is found guilty of violating this Chapter.*
- C. Revocation of a permit shall signify the coop as a public nuisance and the coop shall be removed from the property at the owner's expense.*

**Sec. 3** This ordinance shall be effective thirty (30) days following its enactment.

**Local Laws:**

**Local Law #2019-002:** *(Tabled at the September 5, 2019 Council Meeting)*

**A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN  
PROGRAM (OPEN C-PACE) IN THE CITY OF CANANDAIGUA**

Lifted from the Table: Councilmember Ward 3 White

Seconded: Councilmember-at-Large Whitcomb

*Vote Result: Carried unanimously by voice vote (8-0)*

Moved for adoption: Councilmember Ward 3 White

Seconded: Councilmember-at-Large Whitcomb

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

**Local Law #2019-003:**

Councilmember Ward 4 Sutton read the following local law and placed it on the table.

**A LOCAL LAW TO ESTABLISH A  
COMMUNITY CHOICE AGGREGATION PROGRAM  
IN THE CITY OF CANANDAIGUA**

**WHEREAS**, it is the policy of the City of Canandaigua (City) and the State of New York to reduce energy costs, improve the availability of renewable energy, and provide cost certainty for consumers; and

**WHEREAS**, Community Choice Aggregation (CCA) allows local governments to determine the default supplier of electricity and natural gas on behalf of certain energy consumers who reside within the applicable municipal boundary; and

**WHEREAS**, the purpose of CCA is to allow participating local governments to procure bulk energy supply service while maintaining transmission and distribution service from the existing distribution utility; and

**WHEREAS**, the City Council has determined that the implementation of CCA in the City will allow the City and other local governments to work together through a shared purchasing model to put out for bid the total amount of natural gas and/or electricity being purchased by eligible consumers within the jurisdictional boundaries of the participating municipalities; and

**WHEREAS**, eligible consumers within the City will have the opportunity to have more control to lower their overall energy costs, spur clean energy innovation and investment, improve customer choice and value, and protect the environment; thereby, fulfilling an important public purpose; and

**WHEREAS**, the City Council is authorized to implement CCA pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law and State of New York Public Service Commission (PSC) Case No. 14-M-0224.

**THEREFORE, BE IT ENACTED** by the City Council of the City of Canandaigua, that:

**Sec. 1** The Code of the City of Canandaigua is hereby amended by adding a new Chapter 320, entitled COMMUNITY CHOICE AGGREGATION PROGRAM (*new language in italics*):

**§ 320-1 Definitions**

For purposes of this Chapter, the following definitions apply:

**AGGREGATED DATA**

Aggregated and anonymized information including the number of consumers by service class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months, by service class to the extent possible, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service class.

**CCA ADMINISTRATOR**

The individual/entity duly authorized by the City to put out for bid the total amount of electricity and/or natural gas being purchased by Participating Consumers.

**CUSTOMER SPECIFIC DATA**

Customer specific information, personal data and utility data for all consumers in the municipality eligible to opt-out of the CCA program, including the customer of record's name, mailing address, telephone number, account number, and primary language, if available, and any customer-specific alternate billing name, address, and phone number.

**DATA SECURITY AGREEMENT**

An agreement between the Distribution Utility and the City that obligates each party to meet to protect the confidentiality of Customer Specific Data.

**DISTRIBUTION UTILITY**

The owner or controller of the means of distribution of the natural gas or electricity that is regulated by the PSC.

**ELIGIBLE CONSUMERS**

Consumers of electricity and/or natural gas within the municipal boundaries of the City who receive service from the Distribution Utility as of the effective date of this Ordinance, or new consumers who subsequently become eligible to participate in the CCA program, except those consumers who receive service from the Distribution Utility and have requested not to have their account information shared by the Distribution Utility.

**ESCO**

An entity duly authorized to conduct business in the State of New York as an Energy Services Company.

**PARTICIPATING CONSUMERS**

Eligible Consumers enrolled in the CCA program, either because they are consumers who receive services from the Distribution Utility as of the effective date of this Ordinance and have not opted out, or are New Consumers.

**§ 320-2 Establishment of the CCA Program**

- A. A Community Choice Aggregation (CCA) program is hereby established by the City, whereby the City may implement a CCA program to the full extent permitted by law.

- B. The City may act as aggregator or broker for the sale of electric supply, gas supply, or both to Eligible Consumers and may enter into contracts with one or more suppliers for energy supply and other services on behalf of Eligible Consumers.
- C. The City may enter into agreements and contracts with other municipalities, non-profits, consultants, and/or other third parties to: (1) develop and implement the CCA program, (2) appoint a CCA Administrator, and/or (3) develop offers of opt-in distributed energy resources products and services to Participating Consumers, including opportunities to participate in local renewable energy projects, shared solar, energy efficiency, microgrids, storage, demand response, energy management, and other initiatives and objectives designed to optimize system benefits, target and address load pockets/profile within the CCA zone, and reduce costs for CCA customers.
- D. The operation and ownership of the utility service shall remain with the Distribution Utility. The City's participation in a CCA program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The City shall not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with suppliers on behalf of Participating Consumers.

### **§ 320-3    *Eligibility***

All Eligible Consumers within the City, including residential and non-residential, regardless of size, shall be eligible to participate in the CCA program and shall be enrolled on an opt-out basis except for consumers that: (1) are already taking service from an ESCO, (2) have placed a freeze or block on their account, or (3) have already elected to take service pursuant to a special rate and inclusion in the CCA program will interfere with that rate choice.

### **§ 320-4    *Opt-Out Process***

- A. An opt-out letter, printed on City letterhead, shall be mailed to Eligible Consumers at least thirty (30) days prior to customer enrollment.
- B. The opt-out letter shall include information on the CCA program and the contract signed with the selected ESCO, including specific details on rates, services, contract term, cancellation fee, and methods for opting-out of the CCA program.
- C. The letter shall explain that consumers that do not opt-out will be automatically enrolled in ESCO service under the contract terms and that information on those consumers, including energy usage data, will be provided to the ESCO.
- D. All consumers shall have the option to opt-out of the CCA Program at any time, without penalty.
- E. Termination fees shall not be charged to consumers that cancel their CCA service as a result of moving out of the premises served.

### **§ 320-5    *Customer Service***

Participating Consumers shall be provided customer service including a toll-free telephone number available during normal business hours (9:00 A.M.- 5:00 P.M. Eastern Time, Monday through Friday) to resolve concerns, answer questions, and transact business with respect to the service received from the Supplier.

### **§ 320-6    *Data Protection***

The City may request Aggregated Data and Customer Specific Data from the Distribution Utility provided, however, that the request for Customer Specific Data is limited to only those Eligible Consumers who did not

opt-out once the initial opt-out period has closed. The Municipality must enter into a Data Security Agreement with the Distribution Utility for the purpose of protecting customer data.

**§ 320-7 Administration Fee**

The City may collect, or cause to be collected, funds from customer payments to pay for administrative costs associated with running the CCA program.

**§ 320-8 Reporting**

- A. Annual reports shall be filed with the City Council by March 31<sup>st</sup> of each year and cover the previous calendar year.
- B. Annual reports shall include, at a minimum: number of consumers served; number of consumers cancelling during the year; number of complaints received; commodity prices paid; value-added services provided during the year; and administrative costs collected. The first report shall also include the number of consumers who opted-out in response to the initial opt-out letter or letters.
- C. If a CCA supply contract will expire less than one year following the filing of the annual report, the report must identify current plans for soliciting a new contract, negotiating an extension, or ending the CCA program.

**Sec. 2** This Ordinance shall be effective thirty (30) days following its enactment.

**Motion:** Councilmember Ward 4 Sutton moved for a Public Hearing to be held at the November 7<sup>th</sup> Council Meeting on Local Law 2019-003. Councilmember Ward 3 White seconded the motion.

Vote Result: Carried unanimously by voice vote (8-0)

**Manager's Report:** City Manager John D. Goodwin reported the following:

- Read BID report on events that will be happening downtown.
- Mailings have gone out to City residents informing them of the fall leaf collection program and the policy on snow and ice removal.
- Another notice going out to residents is the 2020 Solid Waste Collection Schedule and bulk refuse program.

**Miscellaneous:**

- Mayor Polimeni stated that the City Council will be seeking qualified applicants for a part time City Court Judge.

**Adjournment**

Councilmember Ward 4 Sutton moved to adjourn the regular session at 8:38 PM. Councilmember Ward 3 White seconded the motion.

*Vote Result: Carried unanimously by voice vote (8-0).*

Nancy C. Abdallah, Clerk Treasurer  
City of Canandaigua

**APPENDIX A**  
**PLANNING/DEVELOPMENT COMMITTEE**  
**Tuesday, October 1, 2019**  
**7:00 PM**  
**Council Chambers- The Hurley Building**

**Committee:** Robert O'Brien-Chair, Bob Palumbo, Renée Sutton, Steve Uebbing

**Other Councilmembers:** Mayor Polimeni, Karen White, Jim Terwilliger, Nick Cutri

**Staff:** John D. Goodwin, Rob Richardson, Terence Robinson

**1. Budget Amendment – Retroactivity Payment to the Fire Union**

The City and the Canandaigua Firefighters Association Local 2098 I.A.F.F. recently settled a collective bargaining agreement (CBA) replacing the previous CBA that expired on December 31, 2016. The agreement includes payments for the raises that the firefighters would have received. The total estimated cost of the retroactivity payment is \$47,000. There are not sufficient funds in the Fire Department Budget for the retroactivity payment and as a result, funds need to be transferred for the payment to take place. City Staff has identified sufficient funding in the employee benefit accounts that can be transferred to the Fire Department budget. In accordance with §14.8 of the City Charter, City Council approval is required to transfer funds from one department or major organizational unit to another department or major organizational unit.

John provided a brief overview of this agenda item- the total cost is about \$81,000 but \$47,000 is needed to cover the remaining gap.

**Renée moved to approve the budget amendment, Bob seconded.**

**4 in favor, 0 opposed. Motion carries to full City Council.**

**2. Town Transfer Facility Usage Agreement**

The City has utilized the Town of Canandaigua's transfer station to provide City residents with the ability to dispose of bulk waste items such as construction and demolition debris (resident/household generated only), carpeting, furniture, appliances, and electronics. The previous agreement expired in April 2019, but both parties agreed to continue on a month to month basis until such time that a successor agreement could be prepared. The new agreement would not require annual renewal, but maybe terminated upon advance 60 days written notice. City Staff recommends approving the agreement.

John provided a brief overview of the agenda item. Renée asked what the total budgeted amount, and John said it's about a \$1000 a month but now includes the ability to dispose of compostable waste. There was concern the increase (\$400 a day previously) was steep, but John added this includes all our tipping fees as well. Steve said this is a fantastic service for residents. Renée asked what the increase reflected, and John said we've seen an increase in tipping fees and includes composting, which we don't really know what that cost will be. Bob asked how long it had been \$400, and John said he could find out. Jim would like to know what the cost of the solid waste tickets are to normalize our fees and asked John to have that information at budget time. Steve thinks this is a more cost-effective option than providing the services ourselves.

**Steve moved to approve the agreement, Renée seconded.**

**4 in favor, 0 opposed. Motion carries to Full City Council.**

### **3. Community Choice Aggregation**

Community Choice Aggregation (CCA) is a municipal energy procurement model that puts control of choosing an energy supplier in local hands by replacing the utility as the default supplier of electricity for virtually all homes and small businesses within a jurisdiction. By pooling demand, communities build the clout necessary to negotiate lower rates with private suppliers and are able to choose cleaner energy. At the September 10th Environmental/Parks Committee meeting, Ben Frevert and Margy Peet from Roctricity made a presentation on how CCA allows whole communities to participate in the clean energy economy by ensuring that a greater percentage of electricity is coming from renewable sources, potentially delivering lower monthly bills and cleaner energy for residents and businesses. In addition to these benefits, CCA is part of the Climate Smart Communities Program and would further the City's efforts to achieve Silver Certification. After hearing this presentation, the general consensus was to bring the local law to this meeting for consideration positioning the City to move forward if it chooses.

John provided a brief overview of how we got here. He added passing the law does not commit us, but positions us to move forward. Renée asked if Terence had edits, and he did. Some of the definitions are no longer applicable. He also thinks Council should discuss the opt in vs. the opt out. He would like the severability item removed as well as the need for the advisory board. Steve sees this as an advantage, and the challenge is ensuring our residents are informed. Opting out needs to be easy. There would be no cost to administer this program.

**Steve moved to pass the law, Renée seconded.**

The Mayor would like to see more than one public hearing & have it done at a City Council meeting. She would also like people to have the ability to call in.

**4 in favor, 0 opposed. Motion carries to Full City Council.**

### **4. LDC UPWP Application**

The Unified Planning Work Program (UPWP) is the program of federally-funded transportation planning activities undertaken each year by the Genesee Transportation Council, its member agencies, and other jurisdictions in the Genesee-Finger Lakes Region. Projects funded through the UPWP must reflect the priorities and direction of the region as represented by the goals and objectives of the Long-Range Transportation Plan (LRTP). The City and Town, in conjunction with the newly formed Canandaigua LDC, would like to submit an application to do long-term planning to address connecting the Lakeshore District to Downtown including the intersection of South Main Street (NYS Rt. 332) and Eastern Blvd. (NYS Rts. 5&20). The plan is to have the LDC as the applicant and support resolutions from both the Town and the City. However, there could be a timing issue, as the State has not officially incorporated the LDC at this time. As such, the backup plan is to have the City apply. The application is due October 18<sup>th</sup> and Staff is requesting authorization to apply and a resolution of support.

John provided a brief overview of this agenda item. They are estimating a cost of \$100,000, and the LDC will provide the in-kind funds- Staff labor from the Town and City will also be included. The LDC is applying on behalf of all the groups, but Rob will be writing physical application. They are involved because of the concept mapping study done last year. John pointed out this has been in the comprehensive plans for years, and this accomplishes City goals as well as LDC goals. There will also be extensive public participation involved, and the GTC will administer the entire process. The funds used by the LDC will come from funding already provided for this purpose. Jim hopes this study will offer creative options that

haven't been thought of yet. Robert added this plan will put us in to position to act when the funding is right.

**Steve moved to support the application, Bob seconded.**

**4 in favor, 0 opposed. Motion carries to Full City Council.**

Renée wants to see more transparency and better communication about when meetings are and when minutes get published. John agreed and said we can do better.

## **5. Railway Bridge Signs**

Anecdotally, the Finger Lakes Railway Bridge over West Avenue by City Hall is struck three to five times a year by vehicles (usually trucks) too tall to traverse under it. Although there are twelve (12) signs between the Buffalo Street Extension and the bridge notifying drivers of the bridge clearance, some members of the community believe the City should be doing more to ensure this does not continue to happen. This item was added to the agenda for further discussion.

Karen said she believes that City does a great job with this, thinks it's a reaction by people when it happens. Renée asked if there are fines or tickets given to drivers, and John said yes. The City really doesn't incur any cost when the bridge gets hit, but there are opportunity costs. Jim added this has been happening since he was a kid, and recognizes there are many signs- he doesn't think the signs jump out however. He wants to know what the cost would be to put flashing lights near the signs, and John added we would need the railroads permission and we would need to pay for the lights, electric, sign upgrades etc. The Mayor asked if there are any fears by FL Railway about the stability of the bridge- John has asked them to reinstall the gutters but are dragging their feet because the "gutters get hit." John has asked them to find a new solution. Steve asked if we can levy an additional fine for striking the bridge- signs might work better if a fine was implemented and put on the signs. Jim doesn't think that is the solution- no one hits the bridge on purpose. Larry Akin said we should put bars up over West Ave. similar to McDonalds, and John said he isn't willing to put up a known hazard or sacrificial sign is appropriate. Jim wants us to put up two yellow flashing lights on either side of the bridge at a low cost. Bob remembers there being lights and people still hit the bridge, and Renée agrees lights are not the solution. There was no action taken.

**Renée motioned to adjourn to Executive Session, Bob seconded.**

**4 in favor, 0 opposed. Motion adjourned to Executive Session at 7:53 p.m.**

**Steve motioned to adjourn, Bob seconded.**

**Meeting adjourned at 8:30 p.m.**

**APPENDIX B**  
**ENVIRONMENTAL/PARKS COMMITTEE**  
**Tuesday, September 10, 2019**  
**7:00 PM**  
**Council Chambers- The Hurley Building**

**Committee:** Karen White -Chair (Absent), Bob Palumbo, Renée Sutton, Dave Whitcomb

**Other Councilmembers:** Mayor Polimeni, Jim Terwilliger, Nick Cutri, Steve Uebbing

**Staff:** John D. Goodwin, Rob Richardson, Terence Robinson, James Sprague, Chief Hedworth, Stephanie Crim

**1. Community Choice Aggregation**

Community Choice Aggregation (CCA) is a municipal energy procurement model that puts control of choosing an energy supplier in local hands by replacing the utility as the default supplier of electricity for virtually all homes and small businesses within a jurisdiction. By pooling demand, communities build the clout necessary to negotiate lower rates with private suppliers and are able to choose cleaner energy. A CCA can allow whole communities to participate in the clean energy economy by ensuring that a greater percentage of electricity is coming from renewable sources, potentially delivering lower monthly bills and cleaner energy for residents and businesses. In addition to these benefits, CCA is part of the Climate Smart Communities Program and would further the City's efforts to achieve Silver Certification. Sue Hughes-Smith from Roctricity LLC will be at the meeting to present on CCA and answer questions for Council.

In Sue's place, Ben Frevert & Margy Peet were in attendance from Roctricity to do the presentation. They provided a background on their organization, as well as the program itself. The City explored this program back in January 2018, however there were issues with the gross receipts tax as well as administrative burden so the City chose not to move forward. The City can have the program administered by a 3<sup>rd</sup> party to eliminate the administrative burden, which all municipalities have done so far. It also appears the gross receipts tax before the City could implement the program now that RG&E has agreed to rectify this issue. Steve asked what would happen if the demand for renewable energy exceeded supply, could an inverse situation occur? Ben said he hasn't seen it, but it is possible. That would also signal to the market to increase supply. Bob asked if we have the numbers to make this work, and Ben said if we acted quickly, we could work with the village and town of Pittsford, Brighton, Irondequoit, and Victor. They are still learning the threshold for achieving the best pricing. If the pricing wasn't right, the City can wait for other communities to come in and make the better price. Renée asked what municipalities must agree on to work together, and Ben said he can look into it and send that information along. Bob asked how people opt out, and Ben said there was a website created for the Town of Geneva so they could opt out online. You can also opt out by phone and mail- the worst-case scenario is they take no action and they receive cheaper, 100% renewable electric. Steve asked what some of the challenges are rolling this out, and Ben said any of them can be mitigated through effective public outreach. The general consensus was to pass a local law to position ourselves to move forward.

**2. Charlotte Street and Sonnenberg Park**

Recently, the City began working along Charlotte Street and Sonnenberg Park. The work involves drainage improvements along the Charlotte St. side of the park, sidewalk work along the west side, removal of the sidewalk on the east side of Charlotte St and the removal of the hedge in the park. This work will achieve multiple goals: protect the London Plane Trees that line Charlotte Street, remove trip hazards and defects in the sidewalk, improve drainage on Charlotte Street and in Sonnenberg Park, and

reduce the maintenance workload of City Staff. Residents have raised concerns about the planned removal of the sidewalk on the east side of Charlotte Street and the removal of the hedge in the park. At the request of City Council, City Staff will provide information about the project.

John provided a brief overview of the agenda item and presented slides on the scope of work. The damage to the sidewalk is more than cosmetic. The scope includes replacing the sidewalk on the other side which is in similar condition. Several residents attended the meeting to voice concerns and answer questions. Bob asked if we can partner with the VA, Sonnenberg, or the Hospital to do this maintenance and asked about flexipave. Stephanie voiced concerns that flexipave, despite advertising they do not dig deep enough to impact roots, she saw them get into the roots during the installation. Dave would like to see us maintain some thoroughfare on the road, and would like to have the hedge stay. He thinks it adds something to the park and taking the hedge out would do more harm than good. Steve asked how often we are removing infrastructure because the resources don't exist, and mentioned he appreciates the community attending the meeting to participate in the process. He would also like to see traffic calming measures to protect a treasured street. He sees Charlotte street as Canandaigua itself. John said Council has given them leeway to change landscaping as a result of the pesticide moratorium. Nick is strongly opposed to removing the hedge and does not want to see the destruction of historic neighborhoods. Jim is also not in favor of removing the hedge. He thinks citizens groups can trim the hedges. The Mayor would like to explore the option of using stone dust similar to what's at Kershaw Park. The Mayor also believes the hedge should stay, and has had people call and volunteer to work on the hedge. Bob wants the sidewalk and hedge to stay, and thinks we should stop giving out pilots so we can hire people and provide services in the City. He also thinks Council should be more involved on projects like these, and John should have notified them. Renee asked if signage would protect the City from liability or exemptions for historic property, and he said he would need to look into that further. He sees no clear exemptions from the ADA requirements. Council would like recommendations and options for how to address the sidewalk, and they are looking for a new approach. They also made it clear that the hedge should stay. John asked Council to remember this when budget season comes, because we need to adequately staff our departments to meet work demands. This item will be on the agenda for the next Environmental/Parks Committee meeting.

### **3. Municipal Agreement for New Waste Receptacles**

In 2014, Ontario County adopted its Local Solid Waste Management Plan (LSWMP) which included the ambitious goal to increase waste reduction and diversion in the County to sixty percent (60%) by 2024. One way the County hopes to achieve this goal is by making high turnout events held in the County's two cities (Canandaigua and Geneva) more sustainable. The County is willing to fund the purchase of new waste bins downtown and make small modifications to existing bins so that they have separate, clearly labeled spots for trash and recycling as well as educational information on the receptacle. Staff recommend approving the agreement with Ontario County to facilitate this project.

**Bob moved to approve the agreement, Dave seconded.**

**3 in favor, 0 opposed.**

**Motion Carries to Full City Council.**

**Bob motioned to adjourn, Dave seconded.**

**Meeting adjourned at 8:51 p.m.**

**APPENDIX C**  
**ORDINANCE COMMITTEE**  
**Tuesday, September 17, 2019**  
**7:00 PM**

**Council Chambers- The Hurley Building**

**Committee:** Dave Whitcomb -Chair, Nick Cutri, Jim Terwilliger, Karen White

**Other Councilmembers:** Mayor Polimeni, Steve Uebbing, Bob Palumbo, Renée Sutton, Robert O'Brien

**Staff:** John D. Goodwin, Rob Richardson, Terence Robinson, Chief Hedworth

**1. Special Event- Oktoberfest**

Jose and Willy's has submitted a special event application for their 3<sup>rd</sup> Annual Oktoberfest celebration. For the previous two years the event has been held on the Jose and Willy's property and they are proposing to expand and partner with Young Lion Brewing for a larger event. The proposed dates for the event are September 28<sup>th</sup> and 29<sup>th</sup> at 20 Lakeshore Drive from noon to 8 p.m. each day, with the goal of bringing people down to experience the lake shore and have fun during the off-season. All alcohol will be contained to private property, but they are requesting that Lakeshore Drive be closed from Booth Street to North Shore Boulevard for a band and games (i.e. corn hole). Patricia Van Damme from Jose and Willy's has been invited to the meeting to discuss their request and answer questions for Council.

Pat Van Damme was at the meeting to discuss her event/request. They would like to close Lakeshore so it's safer for pedestrians and opens up the space- it is similar to what we did for Young Lion. The Mayor asked if they have spoken to the property between them and Young Lions, and they have not- they were waiting to see if the request would be approved. Renée asked how many people normally attend, and Pat said 100. They will also keep all alcohol on private property.

**Nick moved to approve the request, Karen seconded.**

**4 in Favor, 0 opposed. Motion carries, but a special resolution will be voted on at the PUD Committee on Thursday.**

**2. Chicken Ordinance**

§253-2 of the Municipal Code allows residents to keep poultry (chickens) on their property with an approved permit. Recently several community members have raised concerns about City residents who keep roosters on their property due to the excessive noise at all times of the day. Councilmember Dave Whitcomb requested this item be added to the agenda to discuss amending the code to create a section specific to chickens prohibiting roosters. City staff drafted an ordinance that regulates chickens, prohibits roosters and establishes requirements of the chicken coups that must be met in order to obtain and maintain the necessary permit, which will be presented and discussed.

Dave provided a brief overview, and stated other communities with similar ordinances ban rooster. A woman from Granger Street was at the meeting to speak to the volume of the rooster, and she feels she should be able to sleep in peace. She also pointed out the noise ordinance doesn't begin until 7 a.m. John discussed the ordinance he drafted, and also included specifications for coups and sanitary conditions for humans and fowl alike. John has Terence and Code Enforcement review the ordinance and they believe they have solid legislation. It also includes a one-year compliance window. Jim asked why wouldn't this be covered by the noise ordinance- and Chief Hedworth said they aren't equipped to monitor decibel levels,

and the equipment they have is expensive to maintain and seldom used. Jim asked if there are more in the City, and John said there is at least one more. Renée asked if there was any existing code, and John pointed to the top of the drafted ordinance. Bob asked them if someone has spoken to the neighbors yet to see if they could comply, and Dave said he wanted the ordinance introduced so he knows what he is talking about. Jim is torn by this; he thinks the noise ordinance is sufficient. He wants residents with roosters to be invited to the public hearing- John said he can make sure that happens. Renée asked if the existing set requires renewal, and John said no, but this is designed to ensure that takes place.

**Karen moved to adopt the Ordinance; Nick seconded.**

Tim Kelly asked we lengthen the time for the Rooster to be moved humanely- Dave requested the ordinance be amended to 60 days instead of 30 days.

**4 in favor, 0 opposed. Motion carries to Full City Council.**

### **3. Expansion of Historic District**

The Canandaigua Historic District includes 354 properties that constitute the historic core of the City. It encompasses the North Main Street Historic District, listed on the National Register in 1973, which included 86 residential, religious and civic properties along both sides of North Main Street between the New York Central Railroad tracks and the intersection of Buffalo and Chapel Streets. In 2016, the City received notification from the New York State Department of Parks, Recreation, and Historic Preservation that an additional 68 properties not originally included in the district (see attached map) were eligible to be added due to historic significance. At the time, the City Council chose not to incorporate these properties into the City's Historic District. At the request of Councilmember Dave Whitcomb, this item was added to the agenda for further discussion to reconsider adding these properties that have already been listed on the National and New York State Registers.

Dave pointed out this was discussed in Committee a few years ago. At the time, several Councilmembers didn't want to move forward on this. Dave asked be reconsidered because he thinks he should have supported it initially. John explained that the local ordinance is the only one of the 3 levels that has any teeth. John recommends that if we move forward we should notify all 68 properties prior to taking formal action. The Mayor thinks we need to bring someone from Trumansburg in to help with the discussions. Renée asked what the objections were, and Dave said people were not interested in the more onerous requirements, but he also thinks they should all have to follow the same rules. No one seems to know why they were excluded in the first place- including New York state. It's important to have consistency in the historic district because the requirements are so specific. Rob will send out the maps first thing tomorrow.

Tim Kelly bought his house specifically because it was not in a historic district, and he is furious because his home already has vinyl siding, and he has zombie houses in his neighborhood that would now become historic properties. Steve pointed out the point of pushing this forward would be to open up for public input, and the vote would only be to open the discussion so that can happen. Mike doesn't want the district to be expanded. Dave understands this would put his home under the same requirements. Renée would like to hear Rick's answer, and she would like to see the properties herself. The general consensus of the group was to see more information. Steve sees the arguments of Mr. Kelly, and does not see how making these changes will add to the aesthetics from the street. Karen pointed out that even grandfathering in homes who would need to sell the home with the knowledge it now must comply with historic district requirements which can add an unnecessary burden on the homeowners. Dave see this as a step in the right direction. John added there is no official opinion, and we can get one from Rick and bring it back. Jim would like to see Rick come in and answer questions before moving forward with the process. Steve added this would be a chance to get property owner involvement.

#### **4. Ordinance Reducing Single-Use Plastics**

Last year, upon the request of Councilmember David Whitcomb, the Ordinance Committee began a discussion of an ordinance banning the use of plastic straws in the City. After much discussion the Committee decided to explore a more comprehensive approach and potentially adding other items such as plastic bags and polystyrene foam items in an effort to reduce waste and prevent pollution. At the February 19th Ordinance Committee meeting, Council decided more information was needed before taking any legislative action and directed Staff to invite community stakeholders who would be impacted by such a ban. At its March 19th meeting, representatives from Wegmans and Pactiv addressed Council and discussed how the proposed ordinance would impact their business operationally and economically. At its April 16th meeting, representatives from the Canandaigua City School District, Ontario County, and the Town of Canandaigua shared how the proposed ordinance could impact them. Members of the Merchants Association and local restaurant owners were invited to the May 14<sup>th</sup> meeting to discuss how the proposed ordinance would impact them; however, they were unavailable and sent feedback through the Mayor and the BID. Representatives from the New York State Association for Reduction, Reuse and Recycling (NYSAR3) were invited to the June 18<sup>th</sup> meeting, but did not attend or send feedback. At the August 6<sup>th</sup> Planning/Development Committee, Staff asked if this item should remain on the agenda, and Council requested it be included on this agenda for further discussion.

**This item will be pushed off until the October Ordinance Committee Meeting.**

#### **5. Vaping and Tobacco Establishments**

Recently, concerns have been raised regarding the number and proximity of vaping/tobacco establishments in the City, particularly in the Downtown area. At its April 16th meeting, the Ordinance Committee requested that Staff draft an ordinance that included a licensure of tobacco establishments and included zoning restrictions. At the June 18<sup>th</sup> Ordinance Committee meeting, Staff introduced a draft ordinance adopting Chapter 625 of the Municipal Code and amending Chapter 585 of the Municipal Code to reduce the sale of tobacco and nicotine products. After hearing about the proposed legislation, the owners of Vapor Rising on Main St. voiced concerns that Council did not have a solid grasp on the issue at hand and strongly opposed any legislation that could impact their business. At that time, the proposed ordinance was tabled until it could be revised. At the August 6<sup>th</sup> Planning/Development Committee meeting, Staff asked for guidance on how Council would like the ordinance to be amended, but there was no consensus on what the revised ordinance should address. This item was added to the agenda for further discussion to determine how to move forward with the proposed legislation.

**John recommended we allow Federal and State to take action and see what happens. Renée and Nick both agreed, and her concerns was always about access for children. The Mayor agrees that at this point we should just sit tight. No action was taken, but this will remain on the radar of City Council.**

#### **6. Banning Pesticide Use in City**

In 2016, the City of Canandaigua enacted a 5-year Pesticide Moratorium prohibiting the use of pesticides within City parks. City resident Joel Freedman argued this action did not go far enough, and requested the City explore legislation that would prohibit the use of pesticides in the City or its rights-of-way. New York State Law clearly states that the DEC has exclusive jurisdiction “in all matters pertaining to the distribution, sale, use and transportation of pesticides,” meaning any ordinance passed by City Council to regulate the use of pesticides would likely be deemed to be illegal. After some discussion as to whether or not to legislate or educate on this issue, City Council chose to educate residents via the Lake Friendly Lawncare Program. Mr. Freedman attended the September 5th City Council meeting and demanded the item be re-introduced to discuss more expansive legislation banning the use of pesticides anywhere in the City including on private property.

John pointed out we went with the educate not legislate approach via the lake friendly lawn care campaign, and corporation counsel informed us any legislation we attempted would be illegal. We appropriated funds towards lake friendly lawn care, so he believed we were addressing this. Joel thinks was still focused on the word demanded instead of what he was here to discuss. Joel disagrees with the law and the recommendation of corporation counsel. Terence disagrees completely with Mr. Freedman's analysis. He explained there are two types of preemption, and the one in questions the State has full exemption rights regardless of what Mr. Freedman believes. He added he would be happy to review any legal research Mr. Freedman has seen. Dave thinks we have corporation counsel for a reason, and they recommend we stay in our lane. Karen showed mailings she got notifying her of usage on her property. She also has information on fertilizer laws, and she said she thought we were going to look into that. She also wants us to look at the claims we could get in on for non-hodgkins lymphoma. She pleads with council to do something. She discussed this with Helming and Kolb that she was frustrated we don't have home rule. Kolb thinks we can take a legislative route and she will be following up on possible legislative action. Renée agrees and thinks we should swing for the fences and see what happens. Robert wants to know what path we plan to take, and doesn't see clarity. She wants us to write a comprehensive legislation banning all uses in the City. Dave is not interested in passing a law because we don't think something is fair- the court doesn't care. Terence doesn't see any argument that we could make that wins, but he is interested in hearing more about the conversation Karen had with Helming and Kolb. He said if we limit it to rights-of-way, he can make an argument but he still doesn't think he can win that case. Robert wants to have a clear path towards resolution. Steve has learned that there is no clear understanding the what is used on lawns impacts the lake. Steve thought he made a great argument with this HOA and had Kevin Olvany with him, but they were shot down. He asked people in his old neighborhood how they feel about it, and he is concerned we don't have broad based popular support- would we even be able to maintain it or would our community react negatively? He doesn't think the community is behind it, and we haven't convinced others they should support it too. Karen thinks we need to get ahead of popular opinion. Bob sees serious issues with how we would even enforce it, and that we haven't even scraped the surface on an educational approach. Chief Hedworth sees serious issues with this- including a serious financial and challenging legal path towards actually enforcing this. Nick chooses not to use pesticides, but that is his choice. He doesn't think a law will accomplish the intended benefit. The Mayor thinks we need to make sure we have any legal rights to pass legislation, and even NYC had to work through the legislator to get home rule authority. Steve led the banning of pesticides when he was superintendent, and when he came on to City Council he argued strongly for it. He thinks IPM, as recommended by the watershed, is potentially the way to go. They have gotten commitments from large entities to use lake friendly lawn care at the college, the schools, etc. so these educational efforts have been effective. Jim would like us to try and work with the county as suggested by Kolb and Helming, but he would like to get some clarification who owns what in terms of rights-of-way. Rob is ok with passing a total ban to be told no but is not interested in spending money.

**Karen moved we pursue a City-wide ban on pesticides. No one seconded.**

**She also motioned pursuing a ban on all rights-of-way, Jim seconded.**

**2 in favor, 2 opposed. Motion does not carry.**

**Karen motioned that we pursue home rule legislation, Nick seconded.**

**4 in favor, 0 opposed. Motion carries to Full City Council.**

**There was a 6-3 straw vote to see if they would support legislation brought to Council.**

## **7. Banning Foie Gras in City**

Foie Gras, meaning “fatty liver” in French, is the liver of a duck or goose. Although considered a delicacy in many parts of the world, it is controversial. Joel Freedman raised concerns with City Council at its June 6th meeting and expressed that he considers the methods used to produce foie gras as inhumane. Several countries have outlawed the production, sale and consumption of foie gras. At the June 18<sup>th</sup> Ordinance Committee Meeting, Joel Freedman asked City Council to do both an ordinance banning the sale or production of foie gras within City limits, as well as a resolution supporting an overall foie gras ban in the State of New York. Despite City Council choosing not to take action, Joel Freedman attended the September 5<sup>th</sup> City Council meeting and demanded the item be re-introduced for further discussion.

**Council is not interested in pursuing this.**

**Nick moved to go into executive session, Bob seconded.**

**Meeting adjourned to Executive Session at 8:51 p.m.**

**Meeting adjourned at 9:09 p.m.**

**APPENDIX B**  
**FINANCE/BUDGET COMMITTEE**  
**Thursday, September 24, 2019**  
**7:00 p.m.**  
**Council Chambers- The Hurley Building**

**Committee:** James Terwilliger, Chairman, Robert O'Brien, Steve Uebbing, Nick Cutri (Absent)

**Other Councilmembers:** Mayor Polimeni, Karen White, Renée Sutton, Bob Palumbo

**Staff:** John D. Goodwin, Rob Richardson, Nancy Abdallah, Terence Robinson

**1. C-PACE Financing Municipal Agreement**

Energize NY Open C-PACE (Property Assessed Clean Energy) channels private capital to commercial and non-profit building owners to make energy upgrades to their buildings, enabling them to improve their properties, lower operating expenses and positively impact their communities. Unlike a bank loan, C-PACE financing is a public benefit authorized by state and local law, with repayment secured through a benefit assessment lien on the improved property. The program is administered through the Energy Improvement Corporation (EIC), a non-profit, statewide local development corporation. To join the program, the City would need to adopt a local law to enable C-PACE. EIC administers the program (records the lien on the land record, bills the property owner directly and administers collection of the payment). At the September 5<sup>th</sup> City Council meeting, a Local Law #2019-002 to Establish a Sustainable Energy Loan Program (Open C-Pace) in the City of Canandaigua was introduced and tabled. In addition, a public hearing regarding the local law was scheduled for the October 3<sup>rd</sup> City Council meeting. Should the law be enacted, a municipal agreement between EIC and the City (see attached) will need to be signed.

Rob provided a brief overview of the agenda item.

Nick moved to approve the agreement, Robert seconded.

4 in favor, 0 opposed. Motion Carries to Full City Council.

**2. Dog Park Refund**

When registering for membership, dog owners sign an Acknowledgment of Risk, Release of Liability, and Terms of Agreement which states that the dog park is not supervised. The registration paperwork also clearly states that there are no refunds. Recently, City Resident Antoinette Constantino requested her membership be terminated after she felt her dog was attacked while utilizing the park. She states the dog park is dangerous and has requested a full refund of the \$30 registration fee. Staff recommends not issuing a refund as the resident was issued and signed all appropriate agreements at the point of registration, but agreed to bring the issues before City Council to discuss if refunds on a case-by-case basis should be permitted.

Ms. Constantino was not present at the meeting. John provided a brief overview of the agenda item. Terence confirmed City Council does not have the authority to distribute funds in this way. Renée, Steve and Karen think we should keep the policy as is. The Mayor and Jim believe Ms. Constantino should be put in contact with Nancy McCarthy to keep them in the loop. Renée stated Nancy has been unwilling and shouldn't be bothered if she doesn't want to contribute. Terence suggested we make sure City Hall is kept in the loop.

### **3. The Hill LLC Purchase Offers**

For many years, the City has attempted to address the abandoned, dilapidated structures on Arsenal Terrace. Recently, the City approach Mike Rappaport, who purchased the tax liens and ultimately the properties if he was interested in also purchasing three (3) adjacent or close-by City-owned parcels (vacant residential lands at 241 West Avenue and 235R West Ave) with the condition that he also demolish the condemned structures on Arsenal Terrace, which has already been completed. The City Manager agreed to the purchase price of \$11,500 for the parcels, conditioned on City Council approval and recommends approving the sale.

John provided a brief overview of agenda item, and George & Julie Marie Smith were in attendance to voice their concern. John pointed out that demoing the properties were part of the sale, and the proposed buyer has already demolished those buildings so now the City needs to uphold its end. The paper streets are in limbo still, and the State needs to step in to deal with those properties. The Hill has rejected a proposal to provide some clear rights on Scott St. Jim asked if we can make Terence's proposal part of the agreement- Terence said we could but he has already rejected the clause. The proposed buyer would rather deal with the State to get permanent rights to Scott St. George Smith spoke, who owns 20 Arsenal Terrence and everything else green on the map. George agrees with Terence, and would like to have language enclosed. He's happy the dangerous structures are down, but he has signs up for property he doesn't own yet and that he also posted on Mr. Smith's side so he's concerned the buyer will not allow access. He doesn't have the financial means to fight this in court, and he would really like to see surveys done before the sale to make sure all property owners are protected. Jim expects we ensure the protection of the property owners before anything is sold. Terence thinks he may have been a little aggressive in his original approach, and he thinks he can try again. Terence is concerned if the they go after Scott Street, they will address all the other streets as well. Terence pointed out there hasn't been a survey done since 1911. The Mayor asked what contact has been made with the proposed buyers, and John said he has spoken with him directly and Terence has spoken with his attorney. Jim asked if he can find more middle ground, and Terence said we could have a narrower agreement which the original agreement. This would at least provide current confirmation the deed language is applicable. Rob thinks we should be the ones going to the State and putting them into the fold properly. John added that we could pursue that course with the State. George again asserts his concerns over future litigation. He also offered \$15,000 to buy the property in question. Rob suggested we survey the property and the City approach the State about claiming the paper streets. Steve thinks we should open up the process. John said if we aren't going to sell the blue properties, we get the streets addressed and then sell everything at once. Steve thinks we should get a survey done ASAP, and Nick agrees. John said we could use contingency potentially to pay for it. John said he will let the LLC know the City has changed direction. Jim asked if he will ask us to pay for the demo, and John said he didn't know. George reiterated his concerns, and that he isn't trying to bust up the deal.

### **4. Auditors Contract Renewal**

The City of Canandaigua uses the services of an independent auditor to review the financial records and to prepare financial statements with regard to those records. In 2014, the City awarded a three (3) year contract to Raymond F. Wager, CPA, P.C. for auditing services for the years ending December 31, 2014, 2015 and 2016. At its September 7, 2017 meeting, City Council passed Resolution #2017-087 accepting a proffered option to extend this contract for auditing services for the two additional years ending December 31, 2017 and 2018 an amount not to exceed \$18,400 and \$18,950 respectively. Raymond F. Wager, CPA, P.C. has proffered an option to extend this contract for auditing services for the two additional years December 31, 2019 and 2020 an amount not to exceed \$19,450 and \$19,950 respectively, and Staff recommends renewing the agreement.

John provided a brief overview. Jim commented its good practice to change auditors from time to time, and the Mayor noted we have in the past. John added they are now local, and that the team rotates and changes. We need to train auditors and we really don't have time to train with the turnover in the clerk's

office. We will go out in 2020. Robert thinks we should on option to renew for a second year. Nick doesn't agree and thinks we should approve the contract as stated. He thinks the two-year option is appropriate.

**Steve moved to approve the recommendation understanding we go out to bid, Nick seconded.**

**3 in favor, 1 opposed. Motion carries to Full City Council.**

Jim asked John to discuss the City's fiscal and environmental health scores. The City is doing very well in both regards, and we received no designation. We are under absolutely no fiscal stress. Steve wants City Staff to do a press release because this is an extraordinary accomplishment.

The Mayor requested a brief executive session for personnel matters.

**Rob motioned to adjourn to Executive Session, Steve seconded**

**Meeting adjourned at Executive Session at 8:00 p.m.**

**Nick motioned to adjourn, Steve seconded.**

**Meeting adjourned at 8:06 p.m.**